1921/10

Department of L-R.

OFFICE BD Rae

STATION Madras

Mis No. 5 P.

Dated 28-1-21

B 44 857/44
A 82/21.

To whom sent		Date	Initia
	Given for copying		
	Copied		
	Examined		
	Signed		
	Given for despatch		
	Despatched	31/1/21	
Pages in the file	Indexed		
	To be destroyed on		

(SUBJECT.)

Suits (8 Kanara) Works of Munsiff - Outdoor - Assignment of house sites - Breach of Condition - Failure to surrender - Durkhe cancelled

Not to be tied in the case of permanent records.

4. PM
KSK

Villages etc (South Kanara) | Alienation of ₹ Rs. Site - Ejectio

Purchaser - Smt

B 4263-20-1 ಪ್ರ 2 ಪ್ರ 12/20.

Regd. The Collector's attention is drawn to Board's Regd

P. 226-78 (R) no B.665-20-2 ಪ್ರ 27.4.20 and he is requested to report if the Suit has been filed and if so, what stage the matter is

To the Collector of S. Kanara 1/12/20

1.12.20

DESPW
SN
2/12/20

2

BOARD OF REVENUE — 16 DEC 1920 — LAND REVENUE DEPT. — MADRAS

DEPARTMENT.

Received _____ 192 *Registered* B4485 192

Subject.

ENCLOSURES.
No. _____
Spare copies _____

Ref.on C. No. 488/Rev.20.

Sattion Camp Uppinangadi, *dated the* 12th December 1920.

From (Name) M.R.Ry.Rai Bahadur U.Rama Rao,Avl.,B.A.

(Designation) Ag. Collector of South Kanara

To The Secretary to the Board,
Land Revenue, Madras.

Sir

Board's ref.No.B.4263-20-1 - Village site (South Kanara) - Alienation of house site - ejection purchaser - suit.

Three such cases of alienation as was ------- referred to in Board's ref.No.B.665-20-2 (R) have come - to my notice and in all of them plaints have been -- prepared after due notice to surrender was served on the purchasers. Two of these plaints have been --- forwarded to the Government Pleader, Mangalore for - scrutiny and will be submitted for the Board's ----- approval on receipt back from him. In the third -- case, it is learnt that the plaint plot has been ---

handed over by the Court Amin to a person other than the purchaser in Court auction. The Tahsildar is enquiring into the circumstances which led to this course. I shall submit a further report in this matter on receipt of the Tahsildar's report.

For Collector

Village site - House site - (5 houses)

Alienation - Purchaser - Suit -

Regd B4 E 53/20-2 of 5-1-2

The Collr is requested to

expedite the grants

To the Tahsildar

28.12

Ref. on C. No. 438/Rev. 20.

South Kanara Collector's Office,
Mangalore, 21st December 1920.

B. B. C.

From

W. R. Ry. Rai Bahadur U. Rama Rao Avl., B.A.,
Ag. Collector of South Kanara.

A82
BOARD OF REVENUE
3 JAN 1921
LAND REVENUE DEPT.
MADRAS.
To
pd. 4.1.21.

The Secretary to the Board,
Land Revenue. Madras.

Sir,

Village site (South Kanara) - Alienation of house-site - ejection - purchase - suit.

I am submitting herewith for the Board's approval the two plaints referred to in my letter of the 12th instant, in reply to Board's reference No. B 4263-20-1, dated the 2nd instant. They were prepared by the vakil usually employed on behalf of Government at Udipi and approved by the Government Pleader, Mangalore.

For Ag. Collector.

P. T. O

Enclosures.

In the Court of the District Munsif of Udipi.

Original Suit No. /1920.

Between

The Secretary of State for India in Council represented by the Collector of South Kanara. ---- Plaintiff.

and

1. Kadiali Srinivasa Rao.
2. Manjunatha Prabhu. ---- Defendants.

Plaint under Section 26, Order VII, Rule 1 of Civil -- Procedure Code.

The Plaintiff abovenamed begs to state as follows:-

I. That the Secretary of State for India) in Council represented by the Collector of ----) Plaintiff. South Kanara is the Plaintiff.)

The above is the address of Plaintiff for service of - processes.

II. That the 1st Defendant Kadiali ------) Srinivasa Rao is son of U. Manjaya Shanbhogue,) Clerk of Mr. K. Shankaranarayna Rao, Vakil, ---) District Munsif's Court, Udipi, and the -------) Defendants. 2nd Defendant ~~is~~ Manjunatha Prabhu is son of --) Subraya Prabhu and resides at (No. 33) Puttoor -) village, Udipi Taluk.)

III. Subject matter of the suit:-

1. That immovable property S. No. 204/1 of Puttoor ----- village, Udipi Taluk, was assigned by the Government to the - 2nd Defendant under the special house-site rules and was in - his possession.

2. That under the provisions and spirit and intention of the grant or patta issued to the 2nd Defendant on 25-1-1915, he was strictly prohibited from alienating the land in any -- manner or allowing it to be sold through Court. All kinds - of alienations were prohibited by the terms of the patta, --- there being a distinct provision therein that the property -- must not be alienated in any manner.

3. That, however, the plaint property was sold in ---- R. A. P. No. 414/1919 (O. S. No. 92 of 1919) for 2nd Defendant's --- debts, contrary to the terms and provisions of the patta ---- aforesaid and was purchased by the 1st Defendant who is now in possession and wrongful and unlawful enjoyment of the same.

4. That, accordingly, the 2nd Defendant has forfeited his right and title to the plaint plot and the Plaintiff is - entitled to re-enter upon and recover possession of the plaint

land under the terms of the patta in question and in law, ---- justice and equity. There is a provision in the patta for -- re-entry by Government in case of alienation against the terms of the patta.

5. Defendants were called upon by the Plaintiff by one postal registered notice of 15-7-1920 to surrender the plaint land to Plaintiff within 15 days from the date of the receipt of the aboveseid notice with mesne profits from 12-9-1919 ---- until delivery at the annual rate of Rs. 11-7-1.

6. Defendants have failed to comply with Plaintiff's -- demands contained in Plaintiff's notice. Neither of the ---- Defendants has any right to the suit property They are ---- liable to surrender the same to Government with the mesne ---- profits claimed.

7. Hence Plaintiff is constrained and entitled to file this suit against both the Defendants for the following ------ necessary reliefs.

8. That the cause of action for this suit arose in the year 1919 and subsequently at Puttoor village within the ----- jurisdiction of this Court.

IV. That the total value of reliefs claimed in this suit is Rupees for purposes of court-fees and - jurisdiction.

V. Plaintiff. in conclusion, prays for a judgment and decree in his favour granting him the following reliefs:-

(a) Directing Defendants to surrender the plaint plot with the buildings thereon to Plaintiff with mesne profits at the ----- plaint rate from date of plaint till date of delivery. This relief is valued at ------- Rs. 102-8-0 i.e. Rs. 2-8-0 5 times the assessment on the suit land; the assessment on -- the suit land is Rs. 0-8-0 plus Rs. 100 being the estimated value of the buildings.

(b) Directing Defendants to pay Plaintiff Rs. , for mesne profits at the --- plaint rate from 12-9-1919 till date of plaint.

(c) Directing Defendants to pay Plaintiff the full costs of this suit.

(d) Granting Plaintiff such other and --- further reliefs as under the circumstances, the Court thinks the Plaintiff is entitled to get -- from the Defendants. This relief need not be - paid for.

Description of the plaint property.

Registration	Sub-District	Taluk	Village.	Survey Number.	Subdivision Number.	Kisam.	Extent. A. C.	Assessment Rs. A.
South Kanara.	Udipi.	Udipi.	Puttur.	204		Dry.	50	8

In the Court of the District Munsif of Udipi.

Original Suit No. ____.
1920

Between

The Secretary of State for India in Council represented by the Collector of South Kanara. ---- Plaintiff.

and

1. Bajappa Merade.
2. Kistu alias Mathias Rego. ---- Defendants.

Plaint under Section 26 Order VII, Rule 1 of Civil --- Procedure Code.

The Plaintiff abovenamed begs to state as follows:-

I. That the Secretary of State for India in Council represented by the Collector of ---- South Kanara is the Plaintiff.) Plaintiff.

The above is the address of Plaintiff for service of -- processes.

II. That the 1st Defendant Tejappa Hegade is the son of Kukkehalli Muttaya Hegade and resides at Tonse East village, Udipi Taluk and the 2nd Defendant is Kistu alias Mathias Rego son of Juao Mathias Rego and resides at (illegible) Puttur village, Udipi Taluk.) Defendants.

III. Subject matter of the suit:-

1. That immovable properties S. Nos. 206/2 and 115/1 of Puttur village, Udipi Taluk were assigned by the Government to the 2nd Defendant under the special house-site rules and were in his possession.

2. That under the provisions and spirit and intention - of the grant or patta issued to the 2nd Defendant on 1-6-1916, he was strictly prohibited from alienating the lands in any -- manner or allowing them to be sold through Court. All kinds of alienations were prohibited by the terms of the atta, ---- there being a distinct provision therein that the property --- must not be alienated in any manner.

3. That, however, the plaint properties were sold in -- R. E. P. No. 1254/1919 (S. C. S. 358/1917) on the file of this Court for 2nd Defendant's debts, contrary to the terms and provisions of the patta aforesaid and were purchased by the 1st Defendant who is now in wrongful and unlawful possession and enjoyment - of the same.

4. That, accordingly, the 2nd Defendant has forfeited his right and title to the plaint plots and the Plaintiff is entitled to re-enter upon and recover possession of the plaint

lands under the terms of the patta in question and in law, --- justice and equity. There is a provision in the patta for - re-entry by Government in case of alienation against the ---- terms of the patta.

5. Defendants were called upon by the Plaintiff by the postal registered notice of 15-7-1920 to surrender the plaint lands to Plaintiff within 15 days from the date of the ------ receipt of the aforesaid notice with mesne profits from ----- 9-3-1920 until delivery at the annual rate of Rs. 20-3-2.

6. Defendants have failed to comply with Plaintiff's - demands contained in Plaintiff's notice. Neither of the --- Defendants has any right to the suit properties. They are - liable to surrender the same to Government with mesne profits claimed.

7. Hence Plaintiff is constrained and entitled to file this suit against both the Defendants for the following ----- necessary reliefs.

8. That the cause of action for this suit arose in the year 1920 and subsequently at Puttur village within the ----- jurisdiction of this Court.

IV. That the total value of the reliefs claimed in this suit is Rupees for purposes of court fees and jurisdiction.

Plaintiff, in conclusion, prays for a judgment and decree in his favour granting him the following reliefs:-

(a) Directing Defendants to surrender the plaint plots together with the buildings thereon to Plaintiff. This relief is ----- valued at Rs. 202-3-0 viz. Rs. 2-3-0.5 times the assessment on suit lands, the assessment being Rs. 0-3-0 plus Rs. 200 the estimated --- value of the buildings on the suit lands.

(b) Directing Defendants to pay ----- Plaintiff Rs. for mesne profits - at the plaint rate from 9-3-1920 till date of plaint.

(c) Directing Defendants to pay to Plaintiff future mesne profits from this date till delivery.

(d) Directing Defendants to pay Plaintiff the full costs of this suit.

(e) Granting Plaintiff such other and further reliefs as under the circumstances the Court thinks the Plaintiff is entitled to get from the Defendant.

Description of the suit lands

Registration	Sub District.	Taluk.	Village.	Survey Number	Subdivision Number	Kisam.	Extent A	Extent C.	Assessment Rs.	Assessment A.
South Kanara.	Udipi.	Udipi	Puttur	200	2	Dry		38		6
				115				12		2

For Ag. Collector.

26 XII

26.XII.25 25/12

AS.

A 82/21 ——————— Q

Suits (S. Kanara) Edipi Dt. Munsiff — Pathu-
Assignment of house sites- Breach of Condition - Failure
to surrender Institution Sanctioned

(R. M. 5/8/1921.

The Board sanctions the institution of the suits &
approves the draft plaints

Jo
7.1.21

Jo 12/1/21

The Collector of Kanara

Note Vide p 2 n.f. 19.1.21 M2 has approved the draft plaints

Jo
17.1.21

S

Please see cover's letter at p. 21 c. 7 and BD's Reply at p. 22 c. 7 of B/P. ~~S.D.~~ 57 Dress (R). 7.7.20

we asked both. S. K to file some affidavit the purchaser of a house - sale in Bidpur on the ground that alienation was breach of the conditions of grant.

Ask them (officially) if this suit has been filed if so in what stage the matter

MR!
1. XII 020

S

~~S.~~ AS To A/S Draft Interim Rep. below. 2A 2.12.20

dg 1/12/20. 1.12.20

2.12.20

~~M2~~ S Done 2.12.20

M.C. Board's Depn 4263/20-19 2.12.20

12.3 C. Letter from the Coll. S. Kanara — B 4485/2

To A/S

The Collector's is called for please ask

22.12.20 22.12.20

To A-S

Draft submitted at p 3 of

Bar
3/12
4.12.21

WM
5.12.21

the proposed refer need not issue as the
points referred to have been read
A Section. The file may be sent
back to A Section

WM
7.12.21

(S.)
Sec.

To Secretary

Draft Submitted for approval — p 11 of

Sec
7/12/21 This for Consideration whether a Condition restraining
Alienation (for all time) is good in Law. In the Case apart from Question of time
of private transfers such a Condition, is undoubtedly void
vide Sections 10 & 12 of the Transfer of Property Act. The only p 212. Vol III Conl Acts
excepted Case is that of the Lessor or those Claiming under
him. It is true that the T.P. Act does not affect Sec 2. of XV of
Grants of Crown Land. But the Clause seems 1895. Vol IV
unreasonable. It is against Sound public policy to tie up land Conl. Acts
And the same policy requires that property should This question need not be raised now
freely Circulate. By prohibiting Alienation free WM
Courts Creating entailed Estates. Alienation Shou
be prohibited for a reasonable period only

WM
17.12.21

See p 11 of 1921 Opinion in 90/18 & p 12 & 13 of 1922 Opinion in 30/52. (R)
The difficulty has now been for over 15 the question should be sent to the Law Secretary.

Sec
12.12.21